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Company:

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703-872-9306

Voice Number:**Sender:**

David M. Saravitz

Message:

Please file the attached documents (itemized below) in the following U.S. Patent application:

In re: Zheng *et al.*

Confirmation No.: 6104

Appl. No.: 10/024,806

Group Art Unit: 1638

Filed: December 19, 2001

Examiner: Phuong T. Bui

For: OAR POLYNUCLEOTIDES, POLYPEPTIDES AND
THEIR USE IN PHA PRODUCTION IN PLANTS

Request for Reconsideration of Patent Term Adjustment Indicated on Patent (37 C.F.R.
§ 1.706(d)) (2 pages);
Statement of the Correct Patent Term Adjustment Basis(es) Under §1.702 for the Adjustment
(37 C.F.R. § 1.705(b)(2)(i) and (ii)) (3 pages); with attachments (10 pages).

Number of Pages: (including cover page) 16

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USER CODE:	SARAV	REQUESTED BY:	Karyn Grimm
CLIENT/MATTER:	035718/241887	OPERATOR:	

RTA01/2171381v1

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DEC 17 2004

Attorney's Docket No. 035718/241887 (5718-128)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Zheng <i>et al.</i>	Confirmation No.:	6104
Appl. No.:	10/024,806	Group Art Unit:	1638
Filed:	December 19, 2001	Examiner:	Phuong T. Bui
For:	OAR POLYNUCLEOTIDES, POLYPEPTIDES AND THEIR USE IN PHA PRODUCTION IN PLANTS		

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
INDICATED ON PATENT
(37 C.F.R. § 1.705(d))**

NOTE: 37 C.F.R. § 1.705:

(d) . . . If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

(e) The periods set forth in this section are not extendable.

1. This request for reconsideration of the patent term adjustment for the term indicated on United States Patent No. 6,806,401 and is being filed within two months of the date the patent issued on October 19, 2004.
2. Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment (37 C.F.R. § 1.705(b)(2)(i) and (ii))."
3. The above-identified patent (37 C.F.R. § 1.705(b)(2)(iii)):

☒ is not subject to a terminal disclaimer

☐ is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is _____

4. As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)):

In re: Zheng *et al.*
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Filed: December 19, 2001
Page 2

☐ there were none (37 C.F.R. § 1.705(b)(2)(iv)(B)).

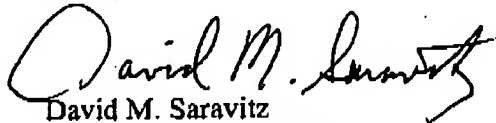
☒ these were as follows (37 C.F.R. § 1.705(b)(2)(iv)(A)):

Applicants did not respond to the Office Action mailed December 19, 2003 within three months of the mailing date. Applicants filed a response to said Office Action on April 6, 2004, which corresponds to 18 days after the date which is three months after the mailing date of said Office Action or March 19, 2004.

5. The fee set forth in § 1.18(e) (\$200.00), required by 37 C.F.R. 1.705(b)(1), is paid as follows:

- ☐ Attached is a check in the amount of \$_____.
☒ Authorization is hereby made to charge the fee to Deposit Account No. 16-0605.
☒ Charge any deficiencies or credit any overpayment to Deposit Account No. 16-0605.

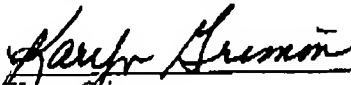
Respectfully submitted,


David M. Saravitz
Registration No. 55,593

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
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Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office Fax No. (703) 872-9306 on the date shown below.


Karyn Grimm

December 17, 2004
Date

DEC 17 2004

Attorney's Docket No. 035718/241887 (5718-128)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Zheng <i>et al.</i>	Confirmation No.:	6104
Appl. No.:	10/024,806	Group Art Unit:	1638
Filed:	December 19, 2001	Examiner:	Phuong T. Bui
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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT
BASIS(ES) UNDER § 1.702 FOR THE ADJUSTMENT
(37 C.F.R. § 1.705(b)(2)(I) and (II))

1. This statement is being submitted in support of the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT" to which this statement is attached.
2. The patent term adjustment shown on United States Patent No. 6,806,401 is 91 days. It is respectfully submitted that the correct patent term adjustment under § 1.702 is 205 days as is shown on the Notice of Allowance
3. The basis on which applicant seeks adjustment are as follows:

Adjustment is sought for the following date: June 28, 2004.

Adjustment to be made for this date: Restoration of 114 days to the patent term adjustment.

Basis: Applicants submit that the patent term adjustment of 205 days as indicated in the Notice of Allowance was correct. That patent term adjustment is determined as follows:

- a. The Application was filed December 19, 2001.
- b. The first Office Action was mailed on September 30, 2003, which is 223 days after the date that is 14 months from the day on which the application was filed.
- c. Applicants did not respond to the Office Action mailed December 19, 2003 within three months of the mailing date. Applicants filed a response to said Office Action on April 6, 2004, which corresponds to 18 days after the date

RTA01/216916/v1

In re: Zheng *et al.*
Appl. No.: 10/024,806
Filed: December 19, 2001
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which is three months after the mailing date of said Office Action or March 19, 2004.

- d. Thus, patent term adjustment is properly calculated as 223 days (USPTO delay) minus 18 days (Applicant delay) yielding a patent term adjustment of 205 days, which is in agreement with the patent term adjustment of 205 days that is indicated in the Notice of Allowance.

On the patent, however, the patent term adjustment is only 91 days. After reviewing the Patent Term Adjustment History, Applicants submit that the Office improperly reduced the patent term adjustment by a period of 114 days and respectfully request that the patent term adjustment of 205 days, as listed on the Notice of Allowance, be reinstated. In support of this request, Applicants submit concurrently herewith copies of the following documents:

- Patent Term Adjustment History from the USPTO website
- Notice of Allowance and Interview Summary mailed on May 26, 2004
- Interview Summary filed by Applicants on June 28, 2004.

Upon review of the Patent Term Adjustment History, Applicants discovered that the Office improperly indicated that the filing of the Interview Summary on June 28, 2004 reduced the patent term adjustment by 114 days. Applicants, however, timely filed this Interview Summary via facsimile transmission on June 28, 2004. The Interview Summary filed by Applicants is a summary of an Examiner-initiated telephonic interview that occurred on May 13, 2004 in which Examiner Bui and Applicants' undersigned representative participated. The telephonic interview was initiated by the Examiner to request Applicants' authorization to enter an Examiner's Amendment to address to 35 U.S.C. 112, second paragraph, issues regarding claim 8 that were not raised previously by the Examiner in an Office Action. On behalf of Applicants, their undersigned representative authorized entry of the Examiner's Amendment during the telephonic interview.

As a result of Applicants' authorization, the Notice of Allowance was mailed on May 26, 2004. With the Notice of Allowance, Applicants received an Interview Summary prepared by Examiner Bui. On page 1 of the Interview Summary, the following is stated:

**THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION
MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See
MPEP Section 713.04). If a reply to the last Office action has already**

In re: Zheng *et al.*
Appl. No.: 10/024,806
Filed: December 19, 2001
Page 3

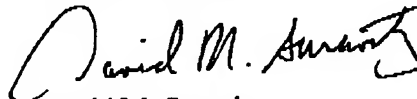
been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

Responsive to the Interview Summary received with the Notice of Allowance, Applicants prepared and timely filed an Interview Summary on June 28, 2004. Applicants' Interview Summary was not submitted in response to the any earlier Office Action and thus, cannot be properly considered to be responsive any Office Action. As is indicated above, Applicants had previously filed a response to the last Office Action (mailed December 19, 2003) on April 6, 2004.

Finally, Applicants note that one month from the mailing date of the Interview Summary prepared by Examiner Bui was Saturday, June 26, 2004. In accordance with 35 U.S.C. § 21(b), Applicants timely filed their Interview Summary on Monday, June 28, 2004.

In view of the above remarks, Applicants submit that the patent term adjustment was improperly reduced by 114 days because Applicants' Interview Summary had been timely filed within the time period set forth on the Interview Summary prepared by Examiner Bui and further submit that the patent term adjustment is 205 days as is correctly indicated on the Notice of Allowance.

Respectfully submitted,

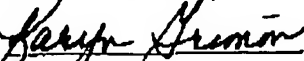


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Karyn Grimm

December 17, 2004
Date

PAIR Page

Page 1 of 2



United States Patent and Trademark Office

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PATENT APPLICATION INFORMATION RETRIEVAL

Patent Term Adjustment (PTA) for publication number: 10/024,806			
			Days
Filing or 371(c) Date:	12-19-2001	USPTO Delay (PTO):	223
Issue Date of Patent:	10-19-2004	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	132
Post-Issue Petitions (days):	+0	Total PTA:	91
USPTO Adjustment (days):	+0	Explanation of Calculations	

Search Options

Assignments
Continuity Data
Display References
Image File Wrapper
File History
Maintenance Fees - Retrieve fees to pay
Maintenance Fees - View payment windows
Maintenance Statement - View 04 year payment window
Maintenance Statement - View 08 year payment window
Maintenance Statement - View 12 year payment window
Published Documents

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Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
10-19-2004	Patent Issue Date Used In PTA Calculation		
09-22-2004	Receipt into Pubs		
09-20-2004	Dispatch to FDC		
09-20-2004	Application Is Considered Ready for Issue		
08-26-2004	Mailroom Date of Issue Fee Payment		
06-28-2004	Miscellaneous Incoming Letter		114
08-26-2004	Issue Fee Payment Recorded		
06-15-2004	Sequence Forwarded to Pubs on Tape		
07-16-2004	Receipt into Pubs		
05-13-2004	Examiner Interview Summary Record (PTOL - 413)		
06-17-2004	Receipt into Pubs		
06-10-2004	Workflow - File Sent to Contractor		
05-26-2004	Mail Notice of Allowance		
05-14-2004	Issue Revision Completed		
05-17-2004	Notice of Allowance Data Verification Completed		
05-17-2004	Notice of Allowability		
04-09-2004	Date Forwarded to Examiner		18
04-06-2004	Response after Non-Final Action		↑
04-06-2004	Request for Extension of Time - Granted		↑
12-19-2003	Mail Non-Final Rejection		

12-15-2003	Non-Final Rejection		
11-01-2003	Date Forwarded to Examiner		
10-30-2003	Response to Election / Restriction Filed		
09-30-2003	Mail Restriction Requirement	223	
09-27-2003	Requirement for Restriction / Election	↑	
07-10-2003	IFW TSS Processing by Tech Center Complete	↑	
09-03-2002	X-Pre-Legal Complete New Case	↑	
08-05-2002	Case Docketed to Examiner in GAU	↑	
04-30-2002	Application Dispatched from OIPE	↑	
04-29-2002	Application Is Now Complete	↑	
04-04-2002	Additional Application Filing Fees	↑	
04-04-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	
04-26-2002	Correspondence Address Change	↑	
02-08-2002	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
01-22-2002	IFW Scan & PACR Auto Security Review	↑	
01-23-2002	CRF Is Good Technically / Entered into Database	↑	
01-03-2002	IFW Scan & PACR Auto Security Review	↑	
12-18-2001	CRF Disk Has Been Received by Preexam / Group / PCT	↑	
12-19-2001	Initial Exam Team nn	↑	

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Alston & Bird

MAY 28 2004

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

29122

7590

05/26/2004

ALSTON & BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TYRON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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EXAMINER

DUI, PHUONG T

ART UNIT

PAPER NUMBER

1638

DATE MAILED: 05/26/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,806	12/19/2001	Peizhong Zheng	35718/241887 (5718-128)	6104

TITLE OF INVENTION: OAR POLYNUCLEOTIDES, POLYPEPTIDES AND THEIR USE IN PHA PRODUCTION IN PLANTS

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	08/26/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

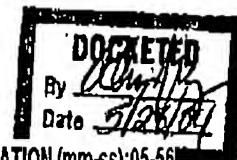
II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Page 1 of 3

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PTOL-85 (Rev. 11/03) Approved for use through 04/30/2004.



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 Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,806	12/19/2001	Peizhong Zheng	35718/241887 (5718-128)	6104
29122	7590	05/26/2004	EXAMINER	
			NUI, PHUONG T	
			ART UNIT	PAPER NUMBER
			1634	

ALSTON & BIRD LLP
 PIONEER HI-BRED INTERNATIONAL, INC.
 BANK OF AMERICA PLAZA
 101 SOUTH TYRON STREET, SUITE 4000
 CHARLOTTE, NC 28280-4000

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DATE MAILED: 05/26/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
 (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 205 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 205 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Notice of Allowability	Application No.	Applicant(s)	
	10/024,808	ZHENG ET AL.	
	Examiner	Art Unit	
	Phuong T. Bul	1638	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview of May 13, 2004.

2. ☒ The allowed claim(s) is/are 1-3 and 5-11.

3. ☐ The drawings filed on _____ are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 * Certified copies not received: _____

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Applicant has **THREE MONTHS FROM THE "MAILING DATE"** of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in **ABANDONMENT** of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
 Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____. 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>5/13/04</u> . 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____
---	---

Phuong T. Bul
 Primary Examiner
 Art Unit: 1638

Interview Summary	Application No.		Applicant(s)	
	10/024,808		ZHENG ET AL.	
	Examiner		Art Unit	
	Phuong T. Bui		1638	

All participants (applicant, applicant's representative, PTO personnel):

(1) Phuong T. Bui. (3) _____

(2) David Saravitz. (4) _____

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Date of Interview: 13 May 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
 c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
 If Yes, brief description: _____

Claim(s) discussed: g.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant authorized Examiner's amendment to remove the two recitations of "first" from claim 8 because of 112, second paragraph issues, as there is no recitation of "second".

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

USPTO
TO:Auto-reply fax to 9198622260 COMPANY:

8/28/2004 4:11 PM PAGE

1/001

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Total Pages:

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David M. Saravitz

Message:

Re: U.S. Patent Application for OAR Polynucleotides, Polypeptides and Their Use in PHA
Production in Plants
Appl. No. 10/024,806, filed December 19, 2001

Number of Pages: (including cover page)

3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/024,806 Confirmation No.: 6104
Applicant(s): Zheng *et al.*
Filed: December 19, 2001
Art Unit: 1638
Examiner: Bui, Phuong T.
Title: OAR POLYNUCLEOTIDES, POLYPEPTIDES AND THEIR USE IN PHA
PRODUCTION IN PLANTS

Docket No.: 035718/241887 (5718-128)
Customer No.: 29122

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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INTERVIEW SUMMARY

Sir:

A telephonic interview in the above-referenced application occurred on May 13, 2004 between Examiner Bui and Applicants' representative, David M. Saravitz. The interview was initiated by Examiner Bui. Applicants provide below a summary of the interview.

Claim 8 was discussed. Examiner Li indicated that claim 8 was indefinite under 35 U.S.C. § 112, second paragraph, for the recitation of "first promoter" and "first nucleotide sequence" when there was no recitation therein of "second promoter" and "second nucleotide sequence". The Examiner proposed to enter an Examiner's Amendment to delete both recitations of "first" from claim 8. An agreement was reached, and Applicants' representative authorized the Examiner's Amendment.

Applicants note for the record that the amendment of claim 8 to delete both recitations of "first" is not intended to limit the scope of their claimed invention. Applicants authorized the amendment due to the previous cancellation of claim 12 which depended from claim 8. Claim 12 included the recitation of both "second promoter" and "second nucleotide sequence" but was cancelled by Applicants without prejudice or disclaimer for being drawn to non-elected subject matter.

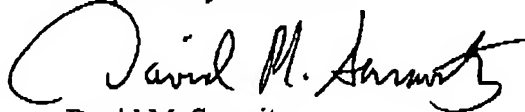
RTA01/2157611v1

In re: Zheng *et al.*
Appl. No. 10/024,806
Filed: December 19, 2001
Page 2

The Examiner is respectfully requested to enter this Interview Summary into the above-referenced application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,




David M. Saravitz
Registration No. 55,593

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Polly P. Burton